



C.R..P.(NPD)(MD).No.901 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.901 of 2025

and

C.M.P(MD) No.4814 of 2025

R.Selvi

... Petitioner/Petitioner/
Defendant

Vs.

1. O.Raja Yokiyam

2. R.Prabhu

3. R.Ram Diwan

... Respondents/Respondents/
Plaintiffs

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to set aside the order dated 30.06.2023 passed by the learned Subordinate Judge, Usilampatti, in I.A.No.220 of 2022 in O.S.No.294 of 2019 and to proceed the same on merits for adjudication and to pass appropriate orders.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondents : Mr.Thirunavukkarasu



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ORDER

The defendant in O.S.No.294 of 2019 on the file of the Sub Court, Usilampatti, has filed the present Civil Revision Petition challenging the dismissal of her application to condone the delay of 559 days in filing an application to set aside the *ex parte* decree.

2. A perusal of the records reveal that the respondents herein have filed the present suit for the relief of specific performance. The defendant was set *ex parte* and an *ex parte* decree came to be passed on 17.02.2021. The decree holders have filed E.P.No.19 of 2021 for execution of sale deed. The Court has executed a sale deed on 31.10.2022. The decree holders have filed E.A.No.43 of 2023 for taking delivery. In such circumstances, the defendant has filed I.A.No.220 of 2022 to condone the delay of 559 days in filing an application to set aside the *ex parte* decree. This application came to be dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.



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3. Pending Revision Petition, the parties have agreed to settle the issue.

The defendant had undertaken to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to the decree holders on or before 31.07.2025 and on such payment, the decree holders also agreed to reconvey the property in favour of the judgment debtor at the expense of the judgment debtor.

4. The defendant has filed an undertaking affidavit. Paragraph No.3 and 4 of the undertaking affidavit are extracted as follows:

“3. I submit that the suit is filed by the respondents herein for the relief of specific performance to enforce the sale agreement dated 24.02.2016. Wherein it was claimed by the plaintiffs that an advance amount of Rs.2,00,000/- was received as part of sale consideration by me. Now the dispute has been negotiated and in order to settle the issue it was agreed by me and the respondents herein on the following terms:

a) I will pay Rs.2,50,000/- in total to the respondents within a period of 3 months from today.

b) On the receipt of Rs.2,50,000/- the respondents herein is also having no objection to



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set-aside the judgment and decree in O.S.No.294 of 2019 on the file of the Sub-Court Usilampatti, dated on 30.06.2023.

4. I submit that I am filing this undertaking affidavit that I will pay Rs.2,50,000/- to the respondents within a period of 3 months in view of the settlement terms mentioned above.”

5. In view of the above said undertaking affidavit, this Court is inclined to pass the following orders:

a) The defendant shall directly pay a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to the plaintiffs on or before **31.07.2025;**

b) On such payment of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only), the decree holders agree not to execute the decree in O.S.No. 294 of 2019;

c) On receipt of a sum of Rs,2,50,000/- (Rupees Tow Lakhs and Fifty Thousand only) the decree holders agree to execute a deed of reconveyance in favour of the judgment debtor at the expense of the judgement debtor; and



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d) The decree holders shall be entitled to withdraw a sum of Rs.50,000/- (Rupees Fifty Thousand only), which they have already deposited before the trial Court.

6. With the above said observations, this Civil Revision Petition stands disposed of on the above said terms. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

28.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 30.04.2025

To

1. The learned Subordinate Judge,
Usilampatti
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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